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SECOND REPORT AND RECOMMENDATION OF PRE-HEARING OFFICER

On January 21, 2000, BellSouth Telecommunications, Inc. ("BellSouth") filed a tariff to reduce the grouping rates in Rate Group 5 (Memphis and Nashville metropolitan areas) and to impose a three percent (3%) late charge on the unpaid balances of all customers' bills. At the February 15, 2000 Authority Conference, the Directors appointed a Pre-Hearing Officer to prepare this matter for hearing. A Pre-Hearing Conference was held on March 15, 2000.

As a consequence of this first Pre-Hearing Conference, on March 22, 2000, BellSouth and the Consumer Advocate Division ("CAD") jointly submitted the following prime issues, which were approved by the Directors at the April 11, 2000 Authority Conference:

1. Does the late payment charge proposed in BellSouth's Tariff 00-00041 constitute an impermissible rate increase for basic local exchange service under Tenn. Code Ann. § 65-5-209?
2. When BellSouth bills for services on behalf of other telecommunications companies, does it have a right, independent of its agreement with the

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telecommunications companies for which it bills, to charge its proposed late payment charge to the consumer, in the event a consumer pays the bill late?

In response to various objections to discovery and motions to compel by both parties, by Notice of May 10, 2000, a second Pre-Hearing Conference was scheduled for May 16, 2000. The Notice specified that this Pre-Hearing Conference intended to address the following items:

1. Resolution of discovery disputes; and
2. Establishing a schedule to completion.

Second Pre-Hearing Conference

The second Pre-Hearing Conference was held on May 16, 2000, before Gary Hotvedt, Counsel, designated as Pre-Hearing Officer. The parties in attendance were:

BellSouth Telecommunications, Inc. – **Patrick Turner, Esq.**, 333 Commerce Street, 22nd Floor, Nashville, TN 37201-3300;

Consumer Advocate Division of the Office of the Attorney General – **L. Vincent Williams, Deputy Attorney General**, Consumer Advocate Division, 425 Fifth Avenue, North, Second Floor, Nashville, TN 37243.

While attempting to resolve the various discovery disputes, it became clear to the Pre-Hearing Officer that the two agreed-upon prime issues in this matter were essentially legal in nature, and that resolution of threshold legal questions would dictate the direction of this proceeding, and may determine the result of this docket. At a minimum, the Authority's decision relative to these legal questions would determine the parties' need for certain discovery responses, which are currently in dispute. Therefore, the Pre-Hearing Officer directed that briefs be filed addressing these threshold legal questions, and determined that resolution of outstanding discovery disputes be held in abeyance until all briefs are filed and the Authority addresses the legal questions raised in this matter.

In addition to the two agreed-upon prime issues, the parties requested to brief certain sub-issues to help clarify their respective positions. After discussion with the parties, the Pre-Hearing Officer allowed for the submission and briefing of such sub-issues for purposes of clarification. Pursuant to a filing of May 18, 2000, BellSouth submitted the following proposed sub-issue:

Does any action the Public Service Commission may have taken with regard to costs associated with late payments during the 1993 rate case involving BellSouth (Earnings Investigation of South Central Bell Telephone Company, 1993-1995, TPSC Docket 92-13527) have any bearing on the application of T.C.A. § 65-5-209 to BellSouth's proposed late payment charge?

On May 18, 2000, the CAD submitted the following proposed sub-issues:

1. Did the General Assembly, when it compelled incumbent and local exchange companies applying for price regulation to add services to the basic local exchange classification, change or diminish the relationship between the then existing service provided and the rates for those services provided?
2. Does Tenn. Code Ann. § 65-5-208(a)(1)'s inclusion of all recurring and nonrecurring charges existing in rates, mean that all recurring and nonrecurring charges associated with basic local exchange service are covered, including but not limited to rates or charges associated with billing, collection and late payments for basic local exchange service?
3. Were the basic local exchange service rates in effect for BellSouth on June 6, 1995 based in part upon the consideration of recurring and nonrecurring expenses arising from billing, collection and late payments for those services?
4. Were the provisions of Tenn. Code Ann. § 65-5-209(f) enacted for the purpose of preserving the relationship between the rates for basic local exchange service and also the service provided at those rates?

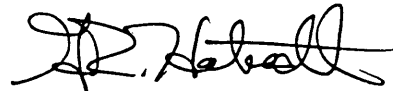
5. When a telecommunications service provider enters into a contract with a consumer and sells that contract to BellSouth or BellSouth purchases that contract, does BellSouth's purchase of the contract unilaterally create any relationship with the customer other than BellSouth's right to receive payments in accordance with the contract?

At the Pre-Hearing Conference, the Pre-Hearing Officer determined that both parties file briefs relative to the above prime issues and sub-issues with the Authority by **2:00 p.m., Tuesday, May 30, 2000**, and reply briefs are to be filed with the Authority by **2:00 p.m., Monday, June 5, 2000**.

The Pre-Hearing Officer recommends that upon receipt and review of both parties' briefs, the Authority schedule an opportunity for the presentation of oral arguments and deliberations on the legal questions raised in this docket.

Recommendations

- (1) The Pre-Hearing Officer **recommends** that the Authority approve this report, and
- (2) The Pre-Hearing Officer **recommends** that this tariff be re-suspended for an additional thirty (30) days to allow adequate time for hearing.



Gary Hotvedt, Pre-Hearing Officer

ATTEST:



K. David Waddell, Executive Secretary